REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2062** *(CTA Case No. 8830)*
	Present:
-versus-	**DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO,** *and* **REYES-FAJARDO,** *JJ.*
THE COURT OF TAX APPEALS-SECOND DIVISION and EDS MANUFACTURING, INC., *Respondents.*	Promulgated: OCT 2 9 2021 10:75 a.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For resolution is petitioner's ***Motion for Reconsideration Re: Decision dated 16 February 2021 (hereinafter referred to as "Motion")***, filed on 8 March 2021,[1] with private respondent's ***Opposition (Re: Motion for Reconsideration dated 5 March 2021) (hereinafter referred to as "Opposition")***, posted on 24 March 2021.

In his Motion, petitioner moves for the reconsideration of the Court *En Banc*'s Decision, dated 16 February 2021, denying his Petition for *Certiorari* and, consequently, affirming the Court in Division's Resolutions, dated 11 January 2019 and 7 March 2019.

The said Resolutions dismissed petitioner's Petition for Relief from Judgment, dated 31 October 2018, for being filed out of time.

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[1] Petitioner filed his Motion within 15 days from his receipt of the assailed Decision on 1 March 2021. Hence, this Motion was timely filed.

The aforementioned Petition asked the Court in Division to allow him to revive his right to appeal the Decision, promulgated on 3 August 2017 (hereinafter referred to as "Original Decision"), and Resolution, dated 12 December 2017 (hereinafter referred to as the "Original Resolution"). These pronouncements ordered the cancellation of the Final Decision on Disputed Assessment ("FDDA") issued against private respondent for fiscal year ended March 2009 in the aggregate amount of ₱67,663,010.38.

Petitioner insists that the Court in Division committed grave abuse of discretion when it denied his Petition for Relief from Judgment. He avers that he is not bound by the negligence of his former handling counsel.

Petitioner echoes his arguments in his Petition for *Certiorari* asking for leniency and explaining that his failure to timely appeal the Original Resolution and file his Petition for Relief from Judgment within the sixty (60)-day and six (6)-months periods are due to the excusable negligence of his former handling counsel and the special circumstances surrounding the facts of the herein case.

He reiterates that the former handling counsel was on leave, due to emergency health reasons, when the Litigation Division of the Bureau of Internal Revenue ("BIR") received his copy of the Original Resolution. Also during this time, the Litigation Division was in disarray due to the sudden transfer of its Chief/Head to another office.

He contends that the former handling counsel only came to know of the Original Resolution when she received the Entry of Judgment on 2 May 2018.

Petitioner stresses that his former handling counsel was also overwhelmed with the significant number of cases assigned and reassigned to her due to the diminishing number of lawyers in the BIR Litigation Division.

Finally, he pleads for the Court *En Banc* to revive his right to appeal the Original Decision and Original Resolution of the Court in Division alleging that he has good and substantial cause of action against private respondent.

He explains that the Court in Division's action invalidating the assessment against private respondent for lack of authority of the investigating revenue officers deserves scant consideration. He insists that the said revenue officers were authorized pursuant to a Memorandum of Authority ("MOA") signed by the OIC-Chief of Large Taxpayers Regular Audit Division I, Ms. Edralin M. Silario.

Meanwhile, in its Opposition, private respondent avers that the Motion should be dismissed outright for being *pro forma*. It states that petitioner failed to prove any patent error in the assailed Decision.

After careful scrutiny of the foregoing, the Court *En Banc* agrees with private respondent that petitioner's arguments are a mere rehash of the points raised in the Petition for *Certiorari*, which have been sufficiently addressed by this Court.

As stated in the assailed Decision, there was no grave abuse of discretion on the part of the Court in Division when it denied petitioner's Petition for Relief from Judgment considering that it was filed out of time. Likewise, he also did not prove that there was excusable negligence on the part of his former handling counsel when it failed to timely appeal the Original Decision and Original Resolution. Indeed, to set aside a judgment through a petition for relief, the negligence must be so gross "that ordinary diligence and prudence could not have guarded against." This is to prevent parties from "reviv[ing] the right to appeal [already] lost through inexcusable negligence."[2]

Furthermore, even assuming that the Court *En Banc* gives due course to the Petition for *Certiorari* and allows him to appeal the Original Decision and Original Resolution, the said case would still be denied, considering that the revenue officers who conducted private respondent's audit were not authorized pursuant to a valid Letter of Authority, rendering the FDDA void.

Contrary to petitioner's assertions, the MOA did not confer authority to the investigating revenue officers since it was not signed by the petitioner or any of his authorized representatives.[3]

All told, this Court finds no cogent reason to modify or reverse the assailed Decision.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration Re: Decision dated 16 February 2021** is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[2] Madarang, et al. v. Spouses Morales, G.R. No. 199283, 9 June 2014, citing Guevara v. Bautista, 593 Phil. 20, 26 (2008).

[3] Medicard Philippines, Inc. v. CIR, G.R. No. 222743, 5 April 2017; CIR v. San Miguel Foods, Inc., CTA *EB* No. 1880, 6 August 2019.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

I reiterate my CSO.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice